

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

MFA.No. 852 of 2000

OPMV.674/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR
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APPELLANT:

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1. PRINCE, S/O.DANIEL, PALLIPURAM HOUSE, NELLIKUNNU.P.O., OLLUKARA.
 2. K.V.THIMTHY, S/O.VARUNNI, KOTTAYATHUKARAN HOUSE, 1/32, NELLIKUNNU, VALAKKAVU, THRISSUR.

BY ADV. SRI.P.T.JOSE

RESPONDENTS:

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1. RAVI, S/O.VASU, PALATHUMTHALAKAL HOUSE, ANNAKUZHY, PUTHOOR.P.O., THRISSUR.
 2. ORIENTAL INSURANCE CO. LTD., CHALAKUDY.

BY ADV. SRI.M.JACOB MURICKAN

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 11/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.

M.F.A.No.852 OF 2000

Dated this the 11th day of October, 2007

JUDGMENT

Radhakrishnan, J

This appeal is filed by the petitioners/appellants with a prayer to call for the records of the case and to set aside the judgment and award passed by Motor Accident Claims Tribunal, Thrissur dated 17.11.99 in O.P.(MV)674/94. The appellants herein are the first and second respondents in O.P. (MV)674/94. The first respondent herein is the petitioner and second respondent herein is the 3rd respondent in the original petition. At the time of the accident, petitioner was travelling in the goods vehicle as a gratuitous passenger. Tribunal found that the accident in this case had occurred prior to the amendment Act of 1994. Hence, the policy issued by the 3rd respondent does not cover passengers like the petitioners and hence the 3rd respondent is not liable to indemnify the 2nd respondent.

In **New India Assurance Company Limited v. Asha Rani [2004 (1) KLT 165]**, the apex court held that under law or it prevailed prior to 1994 amendment insurer cannot be made liable for death or bodily injury suffered by any person found travelling in the goods vehicles arising from any accident. In such circumstances, Tribunal is justified in holding that the insurance company is not liable. Hence, appeal is dismissed.

K.S.RADHAKRISHNAN, JUDGE

A.K.BASHEER, JUDGE

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